

PROPOSITION 102

OFFICIAL TITLE

SENATE CONCURRENT RESOLUTION 1001

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE II, CONSTITUTION OF ARIZONA, BY ADDING SECTION 35; RELATING TO STANDING IN CIVIL ACTIONS.

TEXT OF PROPOSED AMENDMENT

Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

1. Article II, Constitution of Arizona, is proposed to be amended by adding section 35 as follows if approved by the voters and on proclamation of the Governor:

35. Actions by illegal aliens prohibited
A PERSON WHO IS PRESENT IN THIS STATE IN

VIOLATION OF FEDERAL IMMIGRATION LAW
RELATED TO IMPROPER ENTRY BY AN ALIEN
SHALL NOT BE AWARDED PUNITIVE DAMAGES IN
ANY ACTION IN ANY COURT IN THIS STATE.

2. The Secretary of State shall submit this proposition to the voters at the next general election as provided by article XXI, Constitution of Arizona.

ANALYSIS BY LEGISLATIVE COUNCIL

A person who wins a civil lawsuit may receive two types of damages-compensatory and punitive. Compensatory damages are awarded to compensate the injured party for the injuries sustained by making good or replacing the loss caused by the injury. Punitive damages are awarded in excess of compensatory damages to punish the person sued for a serious wrong and to discourage others from engaging in similar wrongful conduct.

Proposition 102 would prohibit a person who wins a civil lawsuit from receiving punitive damages if the person is present in this state in violation of federal immigration law related to improper entry.

ARGUMENTS "FOR" PROPOSITION 102

Ballot argument FOR Proposition 102
(standing in civil actions)

Illegal aliens can not be allowed to exploit our court system. Winners in a civil lawsuit receive two types of rewards: They can be compensated for their losses or they may receive punitive damages in addition to compensation. This referendum properly denies illegal immigrants from receiving punitive damages or rewards in any civil lawsuit. It makes no sense for a person who breaks the law by illegally entering and remaining illegally in the United States to profit from a civil proceeding. Plain and simple: courts of law should not reward lawbreakers. We discourage illegal immigration when it is broadly known that the courts of Arizona will not overlook any person's illegal status. By enacting this referendum we discourage illegal aliens from suing American citizens with the expectation of receiving big rewards.

The Honorable Russell Pearce, Arizona House of Representatives, Mesa

Paid for by "Russell Pearce 2004"

Vote to Curb Lawsuit Abuse, Vote YES on Proposition 102.

As the official legal analysis states above, Proposition 102 would only prohibit a person who wins a civil lawsuit from receiving punitive damages if the person is a foreign national who entered the U.S. in violation of federal immigration law. While this proposition does not establish any other limits on lawsuits to recover damages, it is a sensible first step in curbing lawsuit abuse and much more remains to be done to restore fairness to our tort system.

Proposition 102 is a common sense reform that would start Arizona down the path of a more comprehensive reform of our civil litigation environment and the Arizona Chamber of Commerce and Industry urges Arizonans to vote YES on Proposition 102.

Steve Twist, Chairman of Board of Director,
Arizona Chamber of Commerce and Industry,
Scottsdale

James J. Apperson, President & CEO, Arizona
Chamber of Commerce and Industry,
Scottsdale

Paid for by "Arizona Chamber of Commerce"

United States Code Section 1325 states that any person who enters or attempts to enter the United States illegally is in violation of federal law and is subject to prosecution under that law. We have had occasion in this state where an activist judge has taken the private property from a citizen – who took reasonable strong action to protect that property from illegal incursion – and actually given the property to the illegal alien. This type of action by activist judges should be an affront to all Arizonans.

It is obvious that we must enact Constitutional protection against this outrageous judicial action. This ballot measure is a reasonable protection for private property rights in Arizona. With over a million people annually crossing private the private properties of Arizona citizens killing livestock and security animals, damaging water tanks, destroying pristine desert preserves and threatening the safety and security of our citizens, we must make sure that the victim of this onslaught are not further victimized by the black robed arbiters appointed to the court by a liberal governor.

I strongly support this common-sense Ballot Measure referred for your consideration by your elected representatives and senators. I ask you to join me in voting YES on this measure to protect all Arizonans from one

Spelling, grammar and punctuation were reproduced as submitted in the "for" and "against" arguments.

Issued by: Secretary of State Jan Brewer

more of the side effects of illegal immigration. **Paid for by Goldwater for Governor Committee.**

Don Goldwater, Goldwater for Governor, Laveen

ARGUMENTS “AGAINST” PROPOSITION 102

Proposition 102 is misguided and mean spirited. It may sound good at first, but careful review shows its flaw: It would protect wrongdoers, like drunk drivers.

We use punitive damages to send a message that Arizona will not tolerate certain behavior. To that end, judges and juries award punitive damages for two reasons:

- (1) To punish wrongdoers, and
- (2) To discourage others from engaging in the same wrongful conduct.

Proposition 102 misses the mark because it would undermine the purpose of awarding punitive damages by demonizing the victim.

If Proposition 102 passes, a drunk driver with a long history of unsafe driving could hit an undocumented immigrant and essentially get off easy by avoiding punitive damages. The message it would send is that driving drunk isn't so bad as long as the drunk driver hits someone who is here without proper documentation.

That is the wrong message. Drunk driving, and other wrongful conduct, is no less reprehensible just because some people may not like the victim. It poses no less of a risk to the rest of society. Making sure that drunk drivers avoid punitive damages will not make the community safer.

The backers of Proposition 102 are taking the low road. You should kick this measure to the curb and take the high road. Vote NO on Proposition 102.

State Rep. Steve Gallardo, District 13, Phoenix

The Arizona Farm Bureau opposes proposition 102.

We understand and share the mounting frustration Arizona citizens have regarding the failure of the federal government to act in a responsible and comprehensive fashion regarding border security and immigration. We tend to want to lash out and do something.

This measure would block undocumented immigrants from being able to obtain punitive damages. Punitive damages are reserved for gross negligence or willful and malicious conduct. This proposition says that for a certain class of people, gross negligence against them can be excused.

We think most Arizonans would consider that unfair and look beyond their frustration with federal lawmakers that are not adequately dealing with border security, enforcement and visa reform and vote NO on this proposition.

Kevin G. Rogers, President, Arizona Farm
Bureau, Mesa

James W. Klinker, Chief Administrative Officer,
Arizona Farm Bureau, Mesa

Paid for by “Arizona Farm Bureau”

We urge your NO vote on Proposition 102. It is unnecessary, discriminatory and designed solely to make victims out of illegal immigrants.

Punitive damages are monetary damages awarded by a jury to a victim in only the most egregious cases, where it is determined that a defendant must be monetarily punished for their wrongful conduct. Punitive damages have the effect of discouraging others from engaging in the same type of wrongful behavior in similar situations. Denying an award of punitive damages to a class of people, based solely on whether a person entered this country legally, is wrong. It is pure discrimination, designed to create victims who will have no remedy.

Prohibiting an award of punitive damages is also unwise because it represents a first step toward the elimination of punitive damages as a whole. The proponents of Proposition 102 are starting with a politically unpopular group. But one has to ask, which group of people are next? Do you want to have your right to civilly punish a drunk driver who kills one of your family members taken away? Certainly not!

Please vote NO on Proposition 102.

Jorge Luis Garcia, State Senator, Chairman,
Legislative Latino Caucus, Tucson

Ben Miranda, State Representative, Chairman,
Legislative Latino Caucus, Phoenix

Paid for by “Jorge Luis Garcia”

In Opposition to Proposition 102

Punitive damages are only awarded when the court finds by overwhelming evidence that a person or company “acted with an evil mind, an evil heart and an evil hand”. That is the legal standard for awarding punitive damages and is designed to punish only the worst offenders.

Ballot Proposition 102 seeks to change our Constitution to “protect” the citizens of Arizona by making a class of people unable to receive punitive damages. Those it will protect? The worst of the worst, those proven to be acting with an evil heart, mind and hand!

What is happening here? An old saying goes something like this. “Once the nose is under the tent, you will soon be sleeping with the camel.” Our Federal and State Constitutions were written to provide us with protections that make our country the envy of the world. “With liberty and justice for all” is not an empty promise, but the true measure of what makes our country great.

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Issued by: Secretary of State Jan Brewer

Many greedy big corporations led by the insurance industry, tobacco companies and other international big businesses think they shouldn't be held accountable for their actions. Their campaign to take away our access to the courts has been ongoing for 20 years. They hate our Constitution because it levels the playing field. They can't use their money and power to get away with what sometimes does amount to murder.

Changing our Constitution to take away anyone's rights is the nose under the tent. Future changes will be argued as "necessary" and will only be "Minor" to protect us from "some people". Someday that could be you!

Our founding fathers made it difficult to change the Constitution by requiring a full vote of the people. Vote "NO" if you value your freedoms.

Jon Hinz, Director, Fairness and Accountability in Insurance Reform,
Phoenix
Paid for by "FAIR"

We, the members of the Coalition for Latino Political Action hereby ask the voters of Arizona to vote no on Proposition 102, which would create a different justice system for a group of individuals verses another group of individuals.

The laws of this country should be applied equally to all men. Allowing the passage of this proposition is a perversion of the concept of this country that states that all men are created equal.

This proposition is mean-spirited and does nothing but paint a picture that Arizona is a backward state. Arizona is not a backward state.
Vote no on proposition 102.

Lydia Guzman, Chairman, The Coalition for
Latino Political Action, Glendale
Paid for by "Lydia Guzman"

Delia Torres, Co Chair, The Coalition for Latino
Political Action, Glendale

The Arizona Advocacy Network urges defeat of this proposition that would make a drastic and harmful change in Arizona's constitution. While proponents might argue that undocumented people should not be assured all the same rights as citizens such as the right to seek punitive damages in personal injury and wrongful death cases, this particular change would only protect the worst kind of defendants in such cases and would do nothing to correct problems caused by illegal immigration.

Punitive damages may be considered by a jury only after the judge first finds that there may be clear and convincing evidence that the harmful conduct was so bad that the defendant should be punished beyond having to pay reasonable compensation, such as where the defendant acted intentionally or in reckless disregard of the safety of others. When a jury finds that such conduct occurred, punitive damages are allowed to punish and make an example of the defendant so that all of us are protected, regardless of our citizenship status. Why give such a wrongdoer an exemption from the constitutional system? Solving immigration problems should not weaken the protections provided to all of us by our State's constitution.

The Arizona Advocacy Network is a non-profit community organization that promotes social justice and increased civic participation. Its mission includes the protection of Arizona's constitution from misguided changes that remove protections for all of us, especially those that protect us from the worst kind of wrongdoing.

Michael J. Valder, President, Arizona Advocacy
Network, Phoenix
Paid for "Arizona Advocacy Network"

Eric Ehst, Treasurer, Arizona Advocacy
Network, Phoenix

BALLOT FORMAT

PROPOSITION 102

PROPOSED AMENDMENT TO THE CONSTITUTION
BY THE LEGISLATURE

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ARIZONA; AMENDING ARTICLE II, CONSTITUTION OF ARI-
ZONA, BY ADDING SECTION 35; RELATING TO STANDING IN
CIVIL ACTIONS.

DESCRIPTIVE TITLE

PROVIDES THAT A PERSON WHO IS PRESENT IN THIS
STATE IN VIOLATION OF FEDERAL IMMIGRATION LAW
RELATED TO IMPROPER ENTRY BY AN ALIEN SHALL NOT BE
AWARDED PUNITIVE DAMAGES IN ANY CIVIL ACTION IN ANY
COURT IN THIS STATE.

PROPOSITION 102

A "yes" vote shall have the effect of denying an award of punitive damages in any civil court action to a person who is present in this state in violation of federal immigration law related to improper entry.	YES <input type="checkbox"/>
A "no" vote shall have the effect of allowing persons present in this state in violation of federal immigration law related to improper entry to receive punitive damage awards.	NO <input type="checkbox"/>

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